

REMARKS

Claims 1-26 are pending. Applicant requests reconsideration in light of the following remarks. Applicant requests withdrawal of the outstanding rejections, and allowance of the claims.

In the outstanding office action, the Examiner rejected claims 1-26 under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. Des. 347,900 to Stapleton (the "Stapleton" reference) in view of U.S. Patent No. Des. 417,513 to Blanpied (the "Blanpied" reference), U.S. Patent No. 6,105,329 to Bondoc et al. (the "Bondoc" reference) and U.S. Patent No. 6,014,847 to Phillips (the "Phillips" reference). Applicant contends that all the claims are patentable over these references, and requests withdrawal of the rejection under 35 U.S.C. §103.

The Stapleton reference discloses a laminated shingle having tabs in the overlay portion. All the tabs are of the same uniform color, but are of different horizontal widths and different vertical lengths. The Blanpied reference discloses in Figs. 1, 3 and 5 a shingle having tabs. There are no tabs in the shingles shown in Figs. 2, 4 and 6 of Blanpied. Each of the tabs of Figs. 1, 3 and 5 appears to have at least 3 if not 4 different colors. Combining the multicolored tabs of Blanpied with the uniform colored tabs of the laminated shingle of Stapleton, one would obtain a laminated shingle in which each tab has 3 or 4 different colors. This is different from Applicant's invention which provides that the color blend for each tab is substantially uniform in color. There is nothing in either the Stapleton reference or the Blanpied reference that would suggest to the skilled artisan to take the multicolored tabs of Blanpied and apply the colors to the tabs of Stapleton in such a way as to provide each tab with a uniform color. Therefore, at least for this reason the Stapleton and Blanpied references do not make obvious Applicant's invention as defined in independent claims 1, 9 and 17. Accordingly, Applicant requests withdrawal

of the rejection under 35 U.S.C. §103(a) to the extent that it is based on the combination of the Stapleton and Blanpied references.

The Bondoc reference discloses a tri-laminated shingle having two overlays, shown in Figs. 1 and 2, respectively. Each overlay has 3 tabs. The overlay in Fig. 1 is of a first color and the overlay of Fig. 2 is of a second color, and the tabs are offset with respect to each other. When the two overlays are combined, alternating tabs have alternating colors. The Bondoc structure includes two overlays, whereas Applicant's invention has a single overlay.

Bondoc presents a process using the two overlays for improved color contrast. See Bondoc at column 4, lines 12 and 13, and lines 23 and 24. Bondoc goes on to state that his tri-laminated shingle overcomes difficulties and problems of prior art shingles, such problems being indefinable demarcations between color boundaries and a tawdry, printed appearance. This is a teaching away from the use of a single overlay. Combining Bondoc with Stapleton results in a tri-laminated shingle having exposed tabs of different widths and lengths.

In contrast, Applicant's invention provides a structure with an overlay, not two overlays. Therefore, the combination of Bondoc and Stapleton does not meet the limitations of Applicant's claims. Further, it would not even have been obvious to combine the Bondoc and Stapleton references since using a single overlay of Stapleton would defeat the purpose of Bondoc's invention. Therefore, the combination of the Stapleton and Bondoc references does not make obvious Applicant's invention as defined in independent claims 1, 9 and 17. Accordingly, Applicant requests withdrawal of the rejection under 35 U.S.C. §103(a) to the extent that it is based on the combination of the Stapleton and Bondoc references.

The Phillips reference discloses a laminated shingle having a tabbed overlay shown in Fig. 2 and an underlay shown in Fig. 3. There are horizontal shadow lines at the top and bottom of the tabs, and a deeper horizontal shadow line along the top of the underlay, resulting in a staggered shadow line.

Beginning at column 3, line 66 and continuing through line 4 of column 4, Phillips states that the granules may be of different types and characteristics to yield different shading, sizing and/or color arrangements. Further, Phillips states at column 5, lines 59-62 that the non-shadow portions "include a uniform mix of lighter color granules". Nothing in Phillips suggests that the granules should be applied to the overlay with a precision such that the color blend for each tab would end up being substantially uniform in color. Further, nothing in Phillips suggests that at least one tab of at least one shingle has a different color blend from at least one other tab when laid on a roof with other substantially identically shaped shingles in overlapping longitudinal courses. Combining the Phillips reference with the Stapleton reference, one obtains a laminated shingle with uniform colored tabs of a single color, with each tab having an upper and lower shadow line.

In contrast, Applicant's invention provides for the granules on the overlay to be applied with a precision such that the color blend for each tab is substantially uniform in color, and yet at least one tab of at least one shingle has a different color blend from at least one other tab of a different shingle when laid on a roof with other substantially identically shaped shingles in overlapping longitudinal courses. Therefore, the combination does not meet the limitations of Applicant's independent claims 1, 9 and 17. Accordingly, Applicant requests withdrawal of the rejection under 35 U.S.C. §103(a) to the extent that it is based on the combination of the Stapleton and Phillips references.

Since Applicant has shown independent claims to be patentable over the references, for at least this reason dependent claims 2-8, 10-16 and 18-26 are also patentable.

Regarding dependent claim 25, Applicant further contends that it would not be an obvious matter of design choice to make shingles having approximately 60% of the tabs with a first background color comprising a light

gray, approximately 25% of the tabs with a second background color comprising dark gray, and about 15 percent of the tabs with a third color other than gray, as provided in claim 25. Typical prior art shingles having tabs of different color within an individual shingle do not have a color combination including some tabs that are a generally uniform dark gray blend, some tabs that are a generally uniform light gray blend, and some tabs that are a generally uniform third color. Furthermore, there is no suggestion in the prior art of record to provide the colors in the percentages given in claim 25. Accordingly, Applicant contends that the rejection of claim 25 is in error, and Applicant requests withdrawal of the rejection.

Regarding claim 26, the color purple is an extremely unusual color for asphalt shingles, and certainly this would not be an obvious design choice. Although purple is, of course a known color, one skilled in the art would not be expected to select purple as a color for a portion of the tabs of asphalt shingle since purple is not within the group of usual or expected colors for asphalt shingles. While purple is a common color for such things as candy and crayons, it isn't recognized as an interchangeable substitute in the shingle art. Accordingly, Applicant contends that the rejection of claim 26 is in error, and Applicant requests withdrawal of the rejection.

In view of the above amendments and remarks, Applicant has shown that the invention, as defined his claims is neither disclosed nor suggested by the references of record. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objections and rejections of record, and allowance of all claims.